

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF NORTH CAROLINA
WESTERN DIVISION

NO. 5:17-CV-498-FL

ANN MARIE MCMILLIAN,

Plaintiff,

v.


OFFICER H.L. WHITE, in his individual
and official capacity,

Defendant.

ORDER

This matter is before the court on plaintiff's motion (DE 18) for reconsideration of the court's October 29, 2018, order. Plaintiff argues that the court's dismissal of plaintiff's claims against defendant in his official capacity was in error because plaintiff alleged defendant acted on behalf of the Raleigh Police Department. Such allegation is not sufficient to plead a claim against the defendant in his official capacity. Rather, to plead such a claim, a plaintiff must allege that the individual officer's actions were taken pursuant to an official policy or custom of the agency. Monell v. Department of Social Services of New York, 436 U.S. 658, 690-92 (1978). Plaintiff has not pleaded facts supporting such a claim in this case. Indeed, similar to allegations addressed in the court's October 29, 2018, order, plaintiff asserts that defendant acted as a "rogue officer." (DE 18 at 6). Accordingly, the court correctly dismissed plaintiff's official capacity claim, with plaintiff's individual capacity claim remaining. Plaintiff's motion for reconsideration thus is DENIED. Per the court's October 29, 2018, order, service has not yet been accomplished for that claim, and the time for service has been extended to January 12, 2019.

SO ORDERED, this the 27th day of November, 2018.


LOUISE W. FLANAGAN
United States District Judge